



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: September 16, 2020

RE: **CSI Review – Home Health and Private Duty Nursing (OAC 5160-12-01, 5160-12-02, 5160-12-04, and 5160-12-08)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of four amended rules proposed by the Ohio Department of Medicaid (ODM). This rule package was submitted to the CSI Office on August 17, 2020, and the public comment period was held open through August 24, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on August 17, 2020.

Ohio Administrative Code (OAC) Chapter 5160-12 establishes requirements for the Ohio Home Care Waiver Program, which allows individuals to receive treatment and care in home and community settings. OAC 5160-12-01 and 5160-12-02 describe the requirements for service provision, coverage, and specification of home health and private duty nursing services. The rules are being amended to reflect changes to federal guidelines through the CARES Act, including adding physician assistants and advanced practice nurses as approved providers and including language that allows for flexibility to use telehealth when interacting with patients. OAC 5160-12-04 establishes the visit policy for home health and private duty nursing, which includes timeframes and guidelines for group visits. The rule is amended to incorporate the use of telehealth when

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conducting visits. OAC 5160-12-08 sets forth requirements for registered nurse assessment and consultation services and is being amended to include advance practice nurses and physician assistants as capable of establishing and approving a plan of care, as well as allowing for the use of telehealth.

During early stakeholder outreach, ODM sent the rules to relevant industry stakeholder for feedback, including professional associations such as the Ohio Nursing Coalition, Ohio Health Care Association, and LeadingAge Ohio. ODM states that stakeholders initially suggested that the rules be changed to align with CARES Act guidelines and were supportive of the amendments made in this rule package. One comment was received during the CSI public comment period that was supportive of the proposed amendments.

The business community impacted by the rules includes providers of home health, private duty nursing, RN assessment, and RN consultation services. The adverse impact created by these rules includes the cost of Medicare certification, staff training, and data reporting to ODM. Medicare certification requires a fee of \$569. ODM states in the BIA that the rules are necessary to ensure that providers deliver quality care and to align the rule language with current scope of practice requirements.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Medicaid should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.